

## STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. M-04/10-200  
 )  
 Appeal of )

# INTRODUCTION

The petitioner appeals an "Administrative Review Decision" of the Office of Child Support Enforcement (OCS) dismissing his appeal. The preliminary issue is whether the petitioner's grievance is properly before the Human Services Board and whether the Board has jurisdiction to consider it.

## DISCUSSION

The petitioner participated in a status conference on May 17, 2010 with the attorney for OCS and this hearing officer. The following facts are not in dispute.

The petitioner has an outstanding judgment of child support arrearages issued by the Human Services Board on September 15, 1988. Effective October 1, 1990, all such orders came under the jurisdiction of the Vermont Family Court. See 4 V.S.A. § 451.

The petitioner argues that OCS should not attempt to collect any further arrearages owed to the Department for Children and Families because he claims he is not the father

of the child whose mother has assigned her support rights for that child to the Department. The petitioner further requests that OCS "reimburse" him for \$2,683.86 that it has collected from him to date toward his arrearage.

ORDER

The petitioner's appeal is dismissed because the Board lacks subject matter jurisdiction to hear it.

REASONS

OCS's authority and obligation to collect outstanding child support arrearages is set forth in state statutes. See 15 V.S.A. § 799. Several statutes govern child support establishment and collection in the state of Vermont. See 15 V.S.A. Chapter 11. The Board has repeatedly held that under those statutes all grievances regarding the establishment of an amount of child support and the methods used to collect it are exclusive matters for the court that has jurisdiction to establish and enforce child support orders. See, e.g., Fair Hearing Nos. J-02/09-104 & T-10/09-522. The statutes further provide that the Family Court has jurisdiction to consider parentage claims. 15 V.S.A. § 303.

The Board's jurisdiction over OCS administrative decisions is mainly limited to the jurisdictional mandate

found in the statute governing Board decisions, which reads, in pertinent part, as follows:

An applicant for or a recipient of assistance, benefits or social services from . . . the office of child support . . . may file a request for a hearing with the human services board. An opportunity for a hearing will be granted to any individual requesting a hearing because his or her claim for assistance, benefits or services is denied, or is not acted upon with reasonable promptness; or because the individual is aggrieved by any other agency action affecting his . . . receipt of assistance, benefits, or services . . . or because the individual is aggrieved by agency policy as it affects his or her situation.

3 V.S.A. 3091(d)

OCS's own regulations describe appeals to the Human Services Board as "general grievances", and give as examples a delay or failure to receive a support allocation or an improper distribution of support to recipients of OCS services. See OCS Regulations 2802 and 2802A.

Even if the petitioner in this matter has a valid reason to contest OCS's past and present collection of the child support arrearages, this is an issue that can only be considered and resolved by the court with subject matter jurisdiction over the underlying action. The Board cannot obtain jurisdiction of any claim in lieu of the Family Court, even if the Family Court has refused to consider or denied the petitioner's request that it do so. Inasmuch as consideration of the petitioner's grievance in this matter

lies exclusively with the Family Court, the petitioner's  
appeal must be dismissed.

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